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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

EXAMINER

LIN, SHEW FEN

ART UNIT	PAPER NUMBER
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2166

NOTIFICATION DATE	DELIVERY MODE
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12/06/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

roks@microsoft.com
ntovar@microsoft.com
a-rydore@microsoft.com

Office Action Summary

Application No.

10/607,054

Applicant(s)

PRABU ET AL.

Examiner

Shew-Fen Lin

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

- a. This action is taken to response to Request for Continued Examination filed on 9/25/2007.
- b. This action is taken to response to amendments and remarks filed on 9/25/2007 and request for continued examination (RCE) filed on 9/26/2007.
- c. Claims 1-43 are pending. Claims 13 and 27 are amended. Claims 1, 13, 22, 27, 36, and 39 are independent claims.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 26, 2007 has been entered.

Declarations

Applicants submitted the declaration showing reference's disclosure was derived from Applicant's own work. However, the declaration is not sufficient to overcome the ADS reference.

Formal Requirements of a Declaration

From MPEP §716.01(c) [R-2]

Objective evidence which must be factually supported by an appropriate affidavit or declaration to be of probative value includes evidence of unexpected results, commercial success, solution of a long-felt need, inoperability of the prior art, invention before the date of the reference, and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant. See, for example, *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984) ("It is well settled that unexpected results must be established by factual evidence." "[A]ppellants have not presented any experimental data showing that prior heat-shrinkable articles split. Due to the absence of tests comparing appellant's heat shrinkable articles with those of the closest prior art, we conclude that appellant's assertions of unexpected results constitute mere argument."). See also *In re Lindner*, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972); *Ex parte George*, 21 USPQ2d 1058 (Bd. Pat. App. & Inter. 1991).

From MPEP §2132.01

When the reference is not a statutory bar under 35 U.S.C. 102(b), (c), or (d), applicant can overcome the rejection by swearing back of the reference through the submission of an affidavit under 37 CFR 1.131. *In re Foster*, 343 F.2d 980, 145 USPQ 166 (CCPA 1965). If the reference is disclosing applicant's own work as derived from him or her, applicant may submit either a 37 CFR 1.131 affidavit to antedate the reference or a 37 CFR 1.132 affidavit to show derivation of the reference subject matter from applicant and invention by applicant. *In re Facius*, 408 F.2d 1396, 161 USPQ 294 (CCPA 1969). See MPEP § 715 for more information on when an affidavit under 37 CFR 1.131 can be used to overcome a reference and what evidence is required.

The submitted declaration fails to fulfill all of the formal requirements for submission of a declaration.

- The declarant must set forth what type of declaration he/she is making in the body of the declaration (for example, Declaration under 37 C.F.R. §1.132).
- The declarant must set forth to provide evidence establishing the fact that the patentee, applicant of the published application, or author derived his or her knowledge of the relevant subject matter from applicant. Moreover applicant must further show that he or she made the invention upon which the relevant disclosure in the patent, application publication, or other

publication is based. *In re Mathews*, 408 F.2d 1393, 161 USPQ 276 (CCPA 1969); *In re Facius*, 408 F.2d 1396, 161 USPQ 294 (CCPA 1969).

The affidavit or declaration must clearly explain which facts or data to show that the relevant portions of the reference originated with or were obtained from applicants. The declaration alleges that the claimed invention was derived from Applicant's own work by showing the similarity between the relied on prior arts and Exhibits 1-4. However, the examiner can't locate Exhibits 1-4 within the declaration or any attachments to the declaration. The lack of factual evidence, without proof or a showing of facts, the declaration does not satisfy the requirement of 37 CFR 1.131 or 1.132.

For the reasons cited above, the declarations filed by the Applicants fail to establish that the claimed invention was derived from Applicant's own work. As such, the affidavit is insufficient to overcome the prior art references relied upon in the rejections of record. The rejections are maintained by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 13-15, 18-19, 22-23, 25, 27-28, 30-31, 34-40, and 42 are rejected under 35 U.S.C. 102(a) as being anticipated by ADS ("Image-based Installation of the Operating System and the Cluster Service Using Automated Deployment Services (ADS)", January 1, 2003, Microsoft TechNet, <http://technet2.microsoft.com/WindowsServer/en/library/ba672f36-2a9d-43d2-9737-ab50d5b8b71b1033.msp?mfr=true>).

As to claim 22, ADS discloses a method, implemented in a device (server, page 1, paragraph 2), the method comprising:

obtaining a user-defined task sequence that describes an action to be carried out in managing another device (personalize the operating system image to perform against a device(s), pages 8-9, section 5);

converting the user-defined task sequence to a set of one or more steps of a job to be carried out in managing the other device (define and store instructions for task sequence, page 9, section 6); and

carrying out the one or more steps of the job (execute job against the desired device, pages 11-12, section 8).

As to claim 23, ADS discloses wherein the set of one or more steps comprises steps for automatically deploying an operating system on the other device (page 1, paragraph 1).

As to claim 25, ADS discloses wherein the task sequence further describes actions to be carried out in managing one or more of a plurality of additional devices concurrently (select devices to deploy operating system, pages 2, section 1).

As to claim 27, ADS discloses,

Obtain a user-selected task sequence (select task to be run on a device, pages 9-10, section 6);

convert the user-selected task sequence into an ordered series of steps (associate selected task with user created task sequence file, pages 8-10, sections 5,6); and

perform the series of steps in managing a device over a network in accordance with their order (execute job over the network against device based on the step and order specified in the XML file that containing sequence of task, pages 8-9, section 5, page 12, section 8).

As to claim 28, ADS discloses wherein the user-selected task sequence is a user-defined task sequence (define or select installation options, page 8, section 5).

As to claim 30, ADS discloses wherein the job representation includes a one to one corresponding of elements to steps (page 10, top figure).

As to claim 31, ADS discloses wherein the steps include steps for automatically deploying an operating system on the device (page 1, paragraph 1, page 7).

As to claim 34, ADS discloses wherein the task sequence includes one or more operations to be performed (partition disk, load image, etc. pages 8-9, section 5).

As to claim 35, ADS discloses wherein the series of step are to be performed in managing the device and one or more other device concurrently (multiple devices, page 2, section 1).

As to claim 36, ADS discloses a system comprising: means for obtaining a task sequence that describes a set of one or more steps to be carried out in managing a device (select tasks performed and associated task with a job, pages 8-9, section 5); means for generating a job representation of the set of one or more steps (associate XML file that containing sequence of task with a job, pages 8-10, sections 5 and 6); and means for carrying out the set of one or more steps in accordance with the job representation (page 12, section 8).

As to claim 37, ADS discloses wherein the set of one or more steps includes steps for automatically deploying an operating system on the device (page 1, paragraph 1).

As to claim 38, ADS discloses wherein the set of one or more steps described in the task sequence are to be carried out in managing the device and one or more additional device concurrently (select devices to deploy operating system, pages 2, section 1).

As to **claim 39**, ADS discloses a system comprising: a controller (ADS controller, page 1) to obtain a task sequence that describes one or more steps to be performed on a remote device (task sequence for controller for remote operating system deployment, pages 8-9, section 5, appendix D), and to generate a job representation of the one or more steps (create a job for the sequence file, pages 9-10, section 6); and a network boot service (ADS consists of a network boot services, page 1) to detect when the remote device is coupled to a network that the system is also coupled to, and to communicate with the controller to determine which of the steps of the job representation are to be carried out in response to the detection (once the device boots up, it communicates with controller and boots into deployment agent, page 2, section 1).

As to **claim 40**, ADS discloses wherein the one or more steps includes steps for automatically deploying an operating system on the remote device (page 1, paragraph 1).

As to **claim 42**, ADS discloses wherein one of the steps comprises an operation to be performed on the remote device (install operating system via network, page 1, paragraph 2).

As to **claim 13**, is directed to a computer readable media carrying instructions for performing the methods of claim 22 and is rejected along the same rationale.

As to **claim 14**, ADS discloses wherein the user-defined task sequence is received in an Extensible Markup Language (XML) file (page 8, section 5, appendix D).

As to claim 15, is directed to a computer readable media carrying instructions for performing the methods of claim 23 and is rejected along the same rationale.

As to claim 18, ADS discloses wherein the task sequence includes one or more operations to be performed (partition disk, load image, etc. pages 8-9, section 5).

As to claim 19, ADS discloses wherein the series of steps are to be performed in managing the device and one or more other devices concurrently (multiple devices, page 2, section 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-5, 7-12, 20-21, 26, 29, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over ADS in view of LAB ("Lab: Automated Deployment Services", June 23, 2003, <http://supportech.insa-lyon.fr/Download/HOL/TechEd03/Windows/Deployment.pdf>).

As to claim 1, ADS discloses a method implemented in a device (server, page 1, paragraph 2), the method comprising:

obtaining a task sequence that describes a set of one or more steps to be carried out in managing another device (personalize the operating system image to perform against a device(s), pages 8-9, section 5, appendix D);

generating a job tree representing the set of one or more steps (create a job for the sequence file, page 9, section 6); and

carrying out the set of one or more steps in accordance with the job tree (execute job against the desired device, pages 11-12, section 8, appendix D).

ADS discloses the elements of claim 1 as noted above but does not explicitly disclose a job tree corresponding to the installation steps.

LAB discloses using a task sequence editor to create/modify sequence (page 11) and the task sequence groups and steps can be displayed in the tree view on the left side of the editor window (page 12). Since ADS and LAB both disclose the features of a same application;

“Automated Deployment Services”, it would have been obvious to a person of ordinary skill in the art at the time of invention to recognize that the sequence steps taught by ADS can be represented as a job tree.

As to claim 2, ADS discloses wherein the set of one or more steps includes steps for automatically deploying an operating system on the other device (page 1, paragraph 1).

As to claim 4, ADS discloses wherein carrying out the set of one or more steps causes the device to have firmware on the other device configured (change boot location, appendix D) and an operating system to be deployed on the other device (deploy image for operating system, appendix D).

As to claim 5, ADS discloses wherein the task sequence is part of an Extensible Markup Language (XML) file (page 8, section 5, appendix D).

As to claim 7, ADS discloses wherein one of the steps comprises an operation to be performed (partition disk, load image, etc. pages 8-9, section 5).

As to claim 8, refer to “As to claim 1” presented earlier in this Office Action. Further, LAB discloses parent node (“Deploy an image and configure”) and child nodes (“Partition the disk”, “Download image”,..) in the figure on page 12.

As to claim 9, ADS discloses wherein the set of one or more steps described in the task sequence are to be carried out in managing a plurality of other devices concurrently (multiple devices, page 2, section 1).

As to claim 10, ADS and LAB disclose wherein the task sequence comprises a user-defined task sequence (personalize the operating system image to perform against a device(s), pages 8-9, section 5, ADS, task sequence editor, page 2, LAB).

As to claim 11, ADS discloses wherein the task sequence comprises a user-selected task sequence (select from job template, page 9, section 6).

As to claim 12, LAB discloses further comprising recording the set of one or more steps in a log (view results of a job, pages 5-6).

As to claim 20, refer to “As to claim 8” and “As to claim 13” presented earlier in this Office Action. Further, LAB discloses parent node (“Deploy an image and configure”) and child nodes (“Partition the disk”, “Download image”,...) in the figure on page 12.

As to claim 21, refer to “As to claim 12” and “As to claim 13” presented earlier in this Office Action.

As to claim 26, refer to “As to claim 8” and “As to claim 22” presented earlier in this Office Action. Further, LAB discloses parent node (“Deploy an image and configure”) and child nodes (“Partition the disk”, “Download image”,...) in the figure on page 12.

As to claim 29, refer to “As to claim 8” and “As to claim 27” presented earlier in this Office Action. Further, LAB discloses parent node (“Deploy an image and configure”) and child nodes (“Partition the disk”, “Download image”,...) in the figure on page 12.

As to claim 43, refer to “As to claim 8” and “As to claim 39” presented earlier in this Office Action. Further, LAB discloses parent node (“Deploy an image and configure”) and child nodes (“Partition the disk”, “Download image”,...) in the figure on page 12.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over ADS and LAB as applied to claim 1 above, and further in view of CPUT (“Complete Pre-Upgrade Tasks”, March 23, 2003, Microsoft TechNet, <http://technet2.microsoft.com/WindowsServer/en/library/0cd4a9b4-c30f-4d6f-8201-90dbc16155a11033.mspx?pf=true>).

As to Claim 3, ADS and LAB disclose the elements of claim 1 as noted above but does not explicitly disclose wherein carrying out the set of one or more steps comprises: carrying out a first step of the set of one or more steps; and carrying out the remaining steps of the set of one or more steps only if the first step is completed successfully.

CPUT discloses a upgrade tasks (Figure 8.8) and pre-upgrade tasks must be completed before beginning the in-place upgrade process (paragraph 1, CPUT) . Since task sequence has predefined sequence (for example, partition disk, image,...), it would have been obvious to a person of ordinary skill in the art at the time of invention to combine CPUT with ADS and LAB such that download images (step 2, Appendix D, ADS) will not be performed unless the disk partition (step 1, Appendix D, ADS) is completed.

As to Claim 6, ADS and LAB disclose the elements of claim 1 as noted above but does not explicitly disclose the steps comprises another task sequence.

CPUT discloses task sequence steps can be nested within other task sequence (pre-upgrade task is nested in upgrade sequence, Figure 8.8). Since nested procedure or script files is well known to a person of ordinary skill in the art, it would have been obvious to combine CPUT with ADS and LAB to have task sequence containing another task sequence in order to simplify the deployment.

Claims 16 and 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over ADS as applied to claim 13 above, and further in view of CPUT.

As to Claim 16, ADS disclose the elements of claim 13 as noted above but does not explicitly disclose wherein carrying out the set of one or more steps comprises: carrying out a first step of the set of one or more steps; and carrying out the remaining steps of the set of one or more steps only if the first step is completed successfully.

CPUT discloses a upgrade tasks (Figure 8.8) and pre-upgrade tasks must be completed before beginning the in-place upgrade process (paragraph 1, CPUT) . Since task sequence has predefined sequence (for example, partition disk, image,...), it would have been obvious to a person of ordinary skill in the art at the time of invention to combine CPUT with ADS such that download images (step 2, Appendix D, ADS) will not be performed unless the disk partition (step 1, Appendix D, ADS) is completed.

As to Claim 17, ADS discloses the elements of claim 13 as noted above but does not explicitly disclose the steps comprises another task sequence.

CPUT discloses task sequence steps can be nested within other task sequence (pre-upgrade task is nested in upgrade sequence, Figure 8.8). Since nested procedure or script files is well known to an person of ordinary skill in the art it would have been obvious to combine CPUT with ADS to have task sequence containing another task sequence in order to simplify the deployment.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over ADS as applied to claim 22 above, and further in view of CPUT.

As to Claim 24, ADS disclose the elements of claim 22 as noted above but does not explicitly disclose wherein carrying out the set of one or more steps comprises: carrying out a first step of the set of one or more steps; and carrying out the remaining steps of the set of one or more steps only if the first step is completed successfully.

CPUT discloses a upgrade tasks (Figure 8.8) and pre-upgrade tasks must be completed before beginning the in-place upgrade process (paragraph 1, CPUT) . Since task sequence has predefined sequence (for example, partition disk, image,..), it would have been obvious to a person of ordinary skill in the art at the time of invention to combine CPUT with ADS such that download images (step 2, Appendix D, ADS) will not be performed unless the disk partition (step 1, Appendix D, ADS) is completed.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over ADS as applied to claim 27 above, and further in view of CPUT.

As to Claim 32, ADS disclose the elements of claim 27 as noted above but does not explicitly disclose wherein carrying out the set of one or more steps comprises: carrying out a first step of the set of one or more steps; and carrying out the remaining steps of the set of one or more steps only if the first step is completed successfully.

CPUT discloses a upgrade tasks (Figure 8.8) and pre-upgrade tasks must be completed before beginning the in-place upgrade process (paragraph 1, CPUT) . Since task sequence has predefined sequence (for example, partition disk, image,..), it would have been obvious to a person of ordinary skill in the art at the time of invention to combine CPUT with ADS such that download images (step 2, Appendix D, ADS) will not be performed unless the disk partition (step 1, Appendix D, ADS) is completed.

As to Claim 33, ADS discloses the elements of claim 27 as noted above but does not explicitly disclose the steps comprises another task sequence.

CPUT discloses task sequence steps can be nested within other task sequence (pre-upgrade task is nested in upgrade sequence, Figure 8.8). Since nested procedure or script files is well known to a person of ordinary skill in the art it would have been obvious to combine CPUT with ADS to have task sequence containing another task sequence in order to simplify the deployment.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over ADS as applied to claim 39 above, and further in view of CPUT.

As to Claim 41, ADS discloses the elements of claim 39 as noted above but does not explicitly disclose the steps comprises another task sequence.

CPUT discloses task sequence steps can be nested within other task sequence (pre-upgrade task is nested in upgrade sequence, Figure 8.8). Since nested procedure or script files is well known to a person of ordinary skill in the art it would have been obvious to combine CPUT with ADS to have task sequence containing another task sequence in order to simplify the deployment.

Response to Remarks

Applicant's arguments filed 9/25/2007 have been fully considered but they are not persuasive. Refer to "Declaration" section presented earlier in this Office Action for details.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shew-Fen Lin whose telephone number is 571-272-2672. The examiner can normally be reached on 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 29, 2007

Shew-Fen Lin
Patent Examiner
Art Unit 2166



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER